

[NOT FOR PUBLICATION]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOHNNY A. TANNER,	:	
Plaintiff,	:	07 Civ. 2127 (PAC) (AJP)
-against-	:	<u>REPORT AND RECOMMENDATION</u>
DEPUTY WARDEN JOHN AND/OR JANE DOE	:	
FOR ADMINISTRATION, MDC, et al.,	:	
Defendants.	:	
	:	
	- - - - - X	

ANDREW J. PECK, United States Magistrate Judge:

To the Honorable Paul A. Crotty, United States District Judge:

For the reasons set forth below, the Court should dismiss plaintiff Tanner's action with prejudice for failure to prosecute and failure to obey Court orders.

By Order dated May 17, 2007, the Court scheduled an initial pretrial conference for May 25, 2007. (Dkt. No. 7.) Plaintiff Tanner did not show up for that conference. By Order dated May 25, 2007, I ordered Tanner to show cause in writing by June 12, 2007, why he did not attend the conference. (Dkt. No. 8.) Tanner did not respond.

By letter dated June 18, 2007, defense counsel asked me to recommend dismissal for plaintiff's failure to prosecute the action. By Memo Endorsed Order dated June 18, 2007, I advised Tanner to show cause in writing by June 29, 2007, why the case should not be dismissed. (Dkt. No.

10.) The Order also advised that: "If the Court does not hear from Mr. Tanner in writing by 6/29, the Court will recommend to Judge Crotty that the case be dismissed." (Id.) Tanner did not respond. By letter dated July 3, 2007, the City renewed its request that the case be dismissed.

Accordingly, for the reasons set forth above, and based on the authorities cited in the City's June 18, 2007 letter (Dkt. No. 10), the Court should dismiss Tanner's case with prejudice and without costs for failure to prosecute and failure to obey Court orders.

The July 9, 2007 status conference is cancelled.

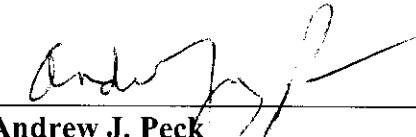
FILING OF OBJECTIONS TO THIS REPORT AND RECOMMENDATION

Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, the parties shall have ten (10) days from service of this Report to file written objections. See also Fed. R. Civ. P. 6. Such objections (and any responses to objections) shall be filed with the Clerk of the Court, with courtesy copies delivered to the chambers of the Honorable Paul A. Crotty, 500 Pearl Street, Room 735, and to my chambers, 500 Pearl Street, Room 1370. Any requests for an extension of time for filing objections must be directed to Judge Crotty (with a courtesy copy to my chambers). Failure to file objections will result in a waiver of those objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140, 106 S. Ct. 466 (1985); IUE AFL-CIO Pension Fund v. Herrmann, 9 F.3d 1049, 1054 (2d Cir. 1993), cert. denied, 513 U.S. 822, 115 S. Ct. 86 (1994); Roldan v. Racette, 984 F.2d 85, 89 (2d Cir. 1993); Frank v. Johnson, 968 F.2d 298, 300 (2d Cir.), cert. denied, 506 U.S. 1038, 113 S. Ct. 825 (1992); Small v. Sec'y of Health & Human Servs., 892 F.2d 15, 16 (2d Cir. 1989); Wesolek v. Canadair Ltd., 838 F.2d 55, 57-59 (2d Cir. 1988); McCarthy

v. Manson, 714 F.2d 234, 237-38 (2d Cir. 1983); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72, 6(a), 6(e).

Dated: New York, New York
 July 5, 2007

Respectfully submitted,


Andrew J. Peck
United States Magistrate Judge

Copies to: Johnny A. Tanner (Regular & Certified Mail)
 Sumit Sud, Esq. (Fax)
 Judge Paul A. Crotty